

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, DC 20554

In the Matter of )  
 )  
 Petitions to Postpone Initial Filing )  
 Window for Two-Way Multipoint )  
 Distribution Service and Instructional )  
 Television Fixed Service Applications )

DA 00-1256

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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

To the Chief, Mass Media Bureau:

**COMMENTS OF ITFS 2020**

In connection with its June 6, 2000 Emergency Petition<sup>1</sup> requesting postponement of the July 3 through July 10, 2000 filing window for Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") applications for two-way operations, ITFS 2020 would like to take this opportunity to update the Commission regarding recent developments and to submit its comments on the petition filed by the Association of Federal Communications Consulting Engineers ("AFCCE"), which also seeks a delay of the July 3 through July 10, 2000 filing window.<sup>2</sup>

<sup>1</sup> See ITFS 2020 Emergency Petition for Postponement of the July 3 - July 10, 2000 Filing Window for Two-Way Multipoint Distribution Service and Instructional Television Fixed Service Applications, filed June 6, 2000 ("*Emergency Petition*"). See also Public Notice, DA 00-1256, "Mass Media Bureau Receives Petitions To Postpone Initial Filing Window for Two-Way Multipoint Distribution Service and Instructional Television Fixed Service -- Pleading Cycle Established" (rel. June 12, 2000).

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I. AFCCE Petition and the Timing of the Filing Window.

ITFS 2020 agrees with most of the points raised in AFCCE's petition. As AFCCE correctly notes, a number of issues the Commission could not reasonably have anticipated when it announced the initial filing window have now made it very unlikely that the majority of ITFS and MDS two-way licensees will be able to prepare accurate, grantable applications in time for the filing deadline.<sup>3</sup> As AFCCE recognizes, these issues include (1) deficiencies in the commercially-available filing software;<sup>4</sup> (2) extensive training time necessary in order to successfully operate the software;<sup>5</sup> (3) lack of certainty regarding the accessibility and accuracy of information contained in the FCC's electronic licensing database;<sup>6</sup> (4) limited access to paper files in the FCC's Public Reference Room;<sup>7</sup> and (5) the significant amount of time needed to prepare all but the most technically straightforward engineering analyses.<sup>8</sup> All of these observations mirror concerns raised by ITFS 2020 in its petition. This supports ITFS 2020's contention that a delay in the date for the first filing window is necessary in order to permit ITFS and MDS licensees to prepare technically accurate, and therefore grantable applications. Most notably, AFCCE's petition supports ITFS 2020's assertion that these issues affect the length and breadth of the ITFS and MDS licensee communities.

Although AFCCE suggests that a delay of only 130 days could be sufficient to alleviate these concerns, ITFS 2020 respectfully disagrees. Of course, AFCCE proposes this short

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<sup>2</sup> See Petition Requesting Revision of Initial Filing Window for Two-Way Multipoint Distribution and Instructional Television Fixed Service, filed June 7, 2000 ("*AFCCE Petition*").

<sup>3</sup> *AFCCE Petition* at 2.

<sup>4</sup> *Id.* at 2-4.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* at 4-5.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 5.

postponement only as the *minimum* acceptable delay.<sup>9</sup> Nonetheless, as ITFS 2020 argued in its emergency petition, such a limited delay simply would not be sufficient to give reasonable assurance that the ITFS 2020 community will be in a position to prepare grantable two-way applications.<sup>10</sup> As an initial matter, even if the software and the database now are perfected, a minimum of 30 to 60 additional days still would be required in order for engineers to obtain necessary training on the new software and to test their results.<sup>11</sup> At that point, ITFS 2020 estimates that it will take engineers approximately six months to complete the complex engineering analyses required for all but the most basic two-way applications.<sup>12</sup> Thus, 130 days simply is not long enough to allow for correction of the problems identified by ITFS 2020 and AFCCE and for two-way applicants to then make use of the perfected software and database to prepare their applications. ITFS 2020 emphasizes that even if the FCC does not grant the 9 month delay we requested, it must provide a delay of a length sufficient to allow licensees to respond in a meaningful fashion to the problems that ITFS 2020 and AFCCE have identified with the applications process.

## II. Software Developments.

ITFS 2020 wishes to make the Commission aware of the following developments relating to the filing software. While it appears that at least one of the software providers -- EDX Engineering -- now has developed a system capable of accepting for evaluation two-way system data provided by applicants on electronic media, the issues identified by ITFS 2020 associated

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<sup>9</sup> See *id.* at 7.

<sup>10</sup> *Emergency Petition* at 13-14.

<sup>11</sup> See *Declaration of John H. Hidle, P.E. ("Hidle Decl.")*, attached to *Emergency Petition*; *Emergency Petition* at 13-14.

<sup>12</sup> *Emergency Petition* at 13-14.

with the release of updated versions of the software so soon before the filing window remain a concern. EDX Engineering released a revised version of its software on June 5, 2000, which it indicates should be its final modification prior to the first filing deadline. CelPlan initially indicated that its June 2, 2000 version of its software was its final version, but it then notified licensees of a further modification to the software package as recently as June 6, 2000. As ITFS 2020 emphasized in its emergency petition, each release of updated software requires extensive testing and verification by engineers, and requires that applications prepared using the previous versions of the software be rerun.<sup>13</sup> In addition, despite the recent improvements, the current state of the software still does not reduce the extensive amounts of time needed to prepare two-way applications. For example, engineers consulting with ITFS 2020 have informed it that the current version of the software may take an average 30 hours of computer run time to complete a single interference analysis for a relatively complex two-way system. This does not include the significant additional time needed for evaluation of the results by licensees and their engineers. If interference to incumbent licensees is indicated, additional time is necessary to locate such interference and to make appropriate adjustments to the system design. Thus, despite the recent improvements to the software, time constraints imposed by the current start date for the first filing window are certain to prevent a significant number of ITFS and MDS applicants from submitting applications.

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<sup>13</sup> *Id.* at 8.

III. Additional Information on Preclusive Effects of Not Filing during the First Filing Window.

ITFS 2020 anticipates that some commenters will seek to play down the preclusive effects that not filing in the first filing window will have on the ability of ITFS licensees to obtain authorization to provide two-way services in subsequent filing windows. However, based on continued analysis by our engineering consultants of this problem, including discussions with engineering consultants of other licensees, ITFS 2020 is convinced that the ability of an applicant to demonstrate that its operations will not cause interference to other licensees will be significantly decreased if the applicant is unable to file in the first filing window. As ITFS 2020 discussed in its emergency petition,<sup>14</sup> following this initial filing window, a “rolling window” will be opened during which applicants may file to add two-way capability or to modify previously authorized two-way capability. Such applications will only be granted, however, if other applicants and construction permits to add two-way capability are fully protected. In other words, after the first filing window, two-way capability will be provided to ITFS/MMDS stations on a first-come first-served basis.

Consequently, as we explained in the emergency petition, licensees run the risk of being subordinated to filings by licensees of nearby co-channel and adjacent channel facilities unless they too file in the first window to establish two-way capability. For licensees that do not file, their existing ITFS facilities need be protected only with regard to their existing interference-free analog video service areas under the Commission’s limited exception provisions.<sup>15</sup> Thus, for example, existing Station A, which operates in the presence of Station B -- a co-channel, existing facility which provides service or otherwise causes interference within Station A’s 35-mile

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<sup>14</sup> *Id.* at 4-6.

<sup>15</sup> *Id.*

“protected service area” -- is in reality protected only to the extent of its actual interference-free area. If Station A files in the opening filing window, however, its application will be given parity of treatment with Station B’s application. Therefore, it becomes essential for many licensees to file two-way applications in the first filing window, or risk being prevented from establishing two-way communications within substantial areas.

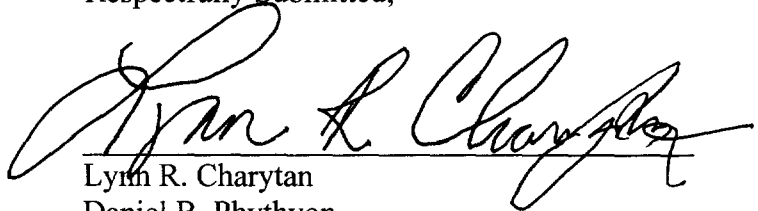
During the past two weeks, opponents of a delay in the first filing window have indicated that they will only file applications during the first window for an MMDS two-way system that utilizes the MDS channel(s) 1, 2, or 2A for all upstream traffic, and utilizes the E-Group or F-Group channels for downstream operation. Further, they claim that this will not adversely affect the ability of E-Group or F-Group ITFS stations to apply for two-way systems subsequent to the initial filing window. This claim has two basic flaws. First, there is no certainty as to who will file in the first filing window; the parties giving these assurances almost certainly will not be the only filers. Second, this claim is not valid for ITFS stations operating on the E-Group, F-Group and H channel frequencies. Since these grandfathered ITFS stations have no access to the out-of-band MDS channels 1 and 2 for use as “upstream,” or return, channels, they are required to search elsewhere for upstream capacity. 125 kHz bandwidth I-channels are associated with the E1, E2, F1 and F2 channels to be used as return channels with current authorized systems, but are woefully inadequate for two-way upstream purposes. Consequently, those grandfathered stations, which are numerous, will be required to make use of some of their downstream channel capacity for upstream return transmission. If those stations for not file in the opening window, as matters now stand, they face the prospect of being prevented from even proposing to locate their

return facilities in substantial areas which they will be able to propose for such use if they file in the opening window.

IV. Conclusion.

For the reasons discussed above and in its emergency petition, ITFS 2020 respectfully requests that the Bureau grant a nine-month postponement of the initial filing window for ITFS two-way applications. Without the requested postponement, the ITFS community will be unable to realize the full benefits that the Commission envisioned in adopting rules to permit two-way operations on ITFS spectrum.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Lynn R. Charytan", written over a horizontal line.


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June 19, 2000

CERTIFICATE OF SERVICE

I, Josh Roland, do hereby certify that on the 19<sup>th</sup> day of June, 2000, I caused true and correct copies of the foregoing Comments of ITFS 2020 to be served by hand\* or by first-class mail, postage prepaid, upon the parties on the attached service list.

  
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